

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 04-7491

MICHAEL BLACK,

Petitioner - Appellant,

versus

ARTHUR F. BEELER, Warden - FMC, Butner, NC,

Respondent - Appellee.

Appeal from the United States District Court for the Eastern
District of North Carolina, at Raleigh. Malcolm J. Howard,
District Judge. (CA-04-360-5-H)

Submitted: December 16, 2004

Decided: December 28, 2004

Before MICHAEL, KING, and SHEDD, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Michael Black, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.
See Local Rule 36(c).

PER CURIAM:

Michael Black appeals the district court's order dismissing without prejudice his 28 U.S.C. § 2241 (2000) petition, in which he challenged conditions of confinement. Because Black may amend his complaint to proceed under Bivens v. Six Unknown Named Agents of Fed. Bureau of Narcotics, 403 U.S. 388 (1971), rather than § 2241, the district court's dismissal without prejudice is not a final order and is not subject to appellate review. See Domino Sugar Corp. v. Sugar Workers Local Union 392, 10 F.3d 1064, 1066-67 (4th Cir. 1993). Accordingly, we dismiss this appeal for lack of jurisdiction. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

DISMISSED